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have been performed only by Him 'who meted out heaven with a span, and comprehended the dust of the earth in a measure, and weighed the mountains in scales, and the hills in a balance.'"

In close connexion with this theory of inversion is that of the *dolomitization* of much of the limestone of Berkshire county. It has been found in other countries, that, when carbonate of lime is in contact with some unstratified rocks, or is in the vicinity of dislocated strata, it is impregnated with magnesia, or, in other words, it has been converted into Dolomite. The change is supposed to have taken place while the limestone was in a state of fusion, or, at least, softened by heat, and permeable to the gaseous sublimation of carbonate of magnesia. After describing the Dolomite of Berkshire, and the evidences of its change from the original limestone, our author observes; "Such are some of the marks of the powerful action of internal heat upon the rocks of Berkshire county. To the geologist and chemist they are as striking and convincing, almost, as the lava and smoke of Vesuvius are to the common observer. But, though this agency must have been powerful, when vast masses of limestone were melted and converted into Dolomite, and huge masses of slate impregnated with carbon, yet the only agency now exerted by these almost smothered solfataras is, to raise a few degrees the temperature of two or three springs."

Part Fourth consists of an abridgment of the "Elementary Geology," of which we have noticed a first and a second edition on former occasions. We have now the pleasure of announcing a third edition. The very short period, in which the second was exhausted, is sufficient evidence that our commendation is quite unnecessary.

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St. Croix, and then it sweeps off to the southwest, and receives its head waters near the sources of the Penobscot. The tributaries of all large rivers have their fountains in highlands on each side, forming a basin through which the main stream passes. Thus it is with the St. John, and this basin, west of the north line so often mentioned, was the territory in dispute, of a triangular form, consisting of about twelve thousand square miles, or more than seven and a half millions of acres, and almost equally divided by the River St. John. Whether this territory belonged to Maine or Great Britain depended on the point at which should be fixed the northwest angle of Nova Scotia. It is not necessary now to examine the merits of the controversy. It is enough to say, that the further it has been pursued, the more perplexed it has become, and the less likelihood there has been of an agreement. Down to the last, both parties have maintained their claim with equal pertinacity and apparent conviction. Lord Ashburton avows his firm belief, that the British right to the whole territory is incontestable; and Mr. Webster declares, very justly, that no opinion was ever more unanimously adopted, both by the Congress and people of the United States, than the equity of the American claim to its fullest extent. Since all the facts are open to both parties, it is certainly remarkable that they should lead to such opposite conclusions.

As a clue to some of the difficulties of the case, we will say a few words on the attempts that have been made to find the northwest angle of Nova Scotia, on which pivot the whole controversy turns, since the highland boundary must begin at that angle. We have mentioned the discovery of the British commissioner at Mars Hill; and his government afterwards maintained that there was the true angle of Nova Scotia. A construction so much at variance with what seemed to be the obvious sense of the treaty, however, was discountenanced by others, even in Great Britain. The report of Messrs. Mudge and Featherstonhaugh carries the angle considerably further north, about half way between Mars Hill and the St. John. It is true, they lay little stress upon this angle, because they argue that it ought to be placed further west on a line running north from the source of a stream emptying itself into the Schoodic Lakes, which they pronounce to be the genuine St. Croix. Again, Mr. Charles

Buller, member of Parliament, wrote an able and ingenious paper,* chiefly to prove that the angle ought to be pushed up across the St. John to a point near the source of the Ristagouche, which runs northeasterly and falls into the Bay of Chaleurs. In his opinion, likewise, the words, "along the highlands," were not employed to denote a line running in a crooked direction along the sinuosities of any particular mountain range, but a straight line passing over the mountainous region between the northwest angle of Nova Scotia and the head waters of the Connecticut River. Mr. Buller accordingly confutes the argument in favor of the southern highlands, and the Mars Hill angle, which he says is "no angle at all of Nova Scotia," but a point in the middle of the western side of that province. If our information be correct, and we have no doubt it is, that Mr. Buller's paper was read and approved by Lord Palmerston before it was published, we have a striking proof of the little confidence reposed by the British government in the arguments which had been used to establish the angle at Mars Hill, and in favor of the southern highlands. Here, then, we have four angles, on the British side, and yet there cannot possibly be more than one true angle, and that a single point with a fixed locality. To assume two, or three, or any other number of angles, remote from each other, and to argue that the one or the other may or must be the angle of the treaty, is, in fact, to abandon the question, and to rest upon nothing.

If we turn to the American side, the conclusion will be nearly the same. The angle uniformly insisted on by the American negotiators is the point on the Canadian highlands, where the ridge of those highlands is cut by a line running due north from the source of the St. Croix. Yet other opinions have been advanced. In the instructions of the old Congress to the commissioners for negotiating the treaty of peace, the northwest angle of Nova Scotia is mentioned as being near the source of the St. John. It is supposed that they may have alluded to the Madawaska branch of that river, and this idea is thrown out by the Commissioners of Maine, in their reply to one of Lord Ashburton's communications to Mr. Webster; but still this supposition would carry the angle at least fifty miles too far west. Mr. Hale, in a

* See *Westminster Review* for June, 1840.

paper published in the *American Almanac* for 1840, written with ability and remarkable clearness, has taken the ground, that the true angle is a few miles north of the St. John, near the sources of the Ristagouche. He thinks our negotiators have erred in adhering so strenuously to the summit of the northern highlands. This angle corresponds exactly with that of Mr. Buller, although the inferences drawn by these two writers, in regard to the boundary, are essentially different.

What shall we say to this singular discordance of opinion, not only between the parties, but between the supporters of each party, respecting this vital element of the controversy? Can we say any thing else, than that there is an impenetrable obscurity in the thing itself, and that the words of the treaty do not admit of that clear and satisfactory interpretation which some have imagined? If we look a little further, and glance at another cardinal point, the position of the highlands, our embarrassment will not be relieved. The treaty defines these highlands as dividing waters which "empty themselves into the St. Lawrence from those which fall into the Atlantic Ocean." According to the American construction, the only chain of highlands answering to this description is the one north of the St. John, and between that river and the St. Lawrence. The British contend, on the contrary, that the St. John falls into the Bay of Fundy, and not into the Atlantic Ocean, as intended by the above words of the treaty; and they cite other parts of the treaty to show, that what the commissioners meant in this place by the Atlantic Ocean was the part of the sea west of the St. Croix. Moreover, from the portion of the highlands, where the Americans fix their angle, the waters flow off in an easterly direction, and empty themselves through the Ristagouche into the Bay of Chaleurs, which, it is said, cannot be designated by the general phrase, Atlantic Ocean; so that the waters at that place are not divided as required by the words of the treaty. Mr. Webster has endeavoured to set aside this objection by a new and forcible argument. He says, that in the construction of treaties, and other instruments of this nature, where there is certainty on one side and doubt on the other, the certainty must rule the doubt. It is certain that the north line must proceed to highlands, from which the waters are thrown into the St. Lawrence.

It follows, that the streams running the other way must be regarded as flowing into the Atlantic, although in their course they may pass through bays and gulfs. Lord Ashburton replies to this argument, but he does not answer it. He contents himself with citing the opinion of the King of the Netherlands, who looked upon it as *hazardous* to class the Ristagouche with the streams falling into the Atlantic, and his Lordship adds his own opinion, that such an idea would be "most absurd." This blunt phrase was not relished by the Maine Commissioners, and they have taken some pains to turn the tables upon his Lordship, by confronting his assertions with additional arguments. Mr. Hale removes this obstacle, by assuming the angle to be at the source of the Ristagouche, as we have seen, and then running a line along the highlands which separate the waters of that river from those of the St. John, till it reaches the Canadian highlands at a point considerably farther west than the angle claimed by the American negotiators. The objection to this line is, that it supposes the Ristagouche to be among the rivers falling into the St. Lawrence, in the sense of the treaty, which is more *hazardous*, as it seems to us, than to class it with the streams that empty themselves into the Atlantic Ocean.

These difficulties, according to the British view of the subject, render it impossible to explain the treaty by seeking for the boundary to the north of the valley of the St. John, and yet, since highlands are expressly mentioned, and more than once, they must be found somewhere. The southern range is selected as the only one that remains, and the hard task is undertaken of making it conform to the language of the treaty. Between the sources of the Connecticut and the St. John the case is clear enough. Here a mountain range divides the waters of the St. Lawrence from those running into the Atlantic. But, from the head of the St. John to Mars Hill, a distance of more than a hundred miles, although they flow into the Atlantic on one side, yet, on the other, they empty themselves into the St. John, and not into the St. Lawrence, as they ought to do, if we keep to the words of the treaty. We are to be reconciled to this apparent contradiction by the forced inference, that the framers of the treaty meant their description to apply to the principal range west of the basin of the St. John, and that this

southern chain is a continuation of the other, and necessarily included as a part of the whole. If we are still dissatisfied, we are brought at once to the last resort; namely, that the treaty cannot be executed by any intelligible or practicable rules of interpretation.

Such is a brief state of the controversy as to the two principal points, the northwest angle and the highlands, upon which all the other points depend. Without taking a step in the inquiry, whether the negotiators of the treaty of 1783 really understood the boundary they described, or the meaning of their own language, whether they had in view the old colonial boundary, or intended a new line, the question may emphatically be asked, whether, at the stage at which the discussion had arrived through this maze of conflicting opinions and contradictory arguments, it was possible for the parties ever to agree upon any construction of the treaty, with a rigid adherence to the claim of right, or for an arbitrator to come to any decision, on the grounds of the treaty, aided by all the lights with which he could be furnished. The answer is most conclusively in the negative. A compromise, with the aim of conciliation, afforded the only hope of an amicable, or even a practicable, arrangement. Nor could there have been the least chance for such a compromise, without breaking, at the outset, the toils of the old controversy, throwing aside the treaty, and taking up the subject anew, with the single purpose of establishing a conventional line, suited to the convenience of the parties, if not meeting all their expectations. This was the grave task which engaged the wisdom and skill of the negotiators at Washington, and which they were so fortunate as successfully to execute.

The experiment of one arbitration had failed. The case was referred to the King of the Netherlands; documents and maps were laid before him, and agents were sent from the two countries to afford the necessary explanations. It cannot be doubted, that the arbitrator bestowed all the attention on the subject which its importance demanded, as affecting the peace, honor, and interests of the two nations, which had confided their cause to his charge. After a full inquiry, however, he confessed himself unable to decide the matter in dispute; nevertheless, that he might present a ground of reconciliation, he proposed a new boundary line, which he thought would meet the equity of the case. By this line,

the disputed territory was so divided as to assign nearly two thirds of it to Maine, and the remainder to Great Britain. Mr. Preble, the American minister appointed to superintend the business of the arbitration, immediately entered a protest against this award, because the arbitrator had transcended his powers, by which he was authorized and requested only to determine the true line of the treaty, and not to make a new one. The legislature of Maine sustained this protest, and refused to accept the award. It was likewise rejected by the Senate of the United States, although President Jackson was in favor of its being received; and he was so much inclined to an adjustment on this basis, that he proposed a provisional arrangement, by which the United States should grant a million of acres of western lands to Maine, as an indemnity for the part of the disputed territory assigned to Great Britain. This proposal was rejected; and here we must acquit the legislature of Maine of the suspicion of being influenced by pecuniary motives, since the lands thus offered, at the minimum price of sales, were worth a million and a quarter of dollars, an amount far beyond any value that could possibly be attached to the portion of territory they were solicited to relinquish. Great Britain acquiesced in the decision of the King of the Netherlands, but, as the United States declined to yield their assent, the two countries were thrown back to the position in which they stood before the reference.

The history of subsequent events needs not be narrated. Whilst the governments were deliberating, and repeating their arguments, the borderers resorted to arms, and a feverish excitement was beginning to pervade the public mind, portending future discords and troubles. Every day afforded additional proofs, that a speedy settlement of the dispute was of the utmost importance to the two countries. Some progress was made towards maturing a plan for a new arbitration. At this juncture, the British government, in an honorable and praiseworthy spirit of conciliation, appointed a special minister to proceed to the United States, with powers to adjust all the questions of boundary on such terms as should give mutual satisfaction. It is needless to say, that this advance was met by the government of the United States in the same spirit. The choice of the minister was judicious and fortunate. The name and character of Lord

Ashburton were known in this country, and were such as not only to inspire public confidence, but to raise a general and strong hope, that his mission of amity and peace would not prove abortive. And no American could for a moment distrust the ability, knowledge, and patriotism of Mr. Webster, or doubt what course he would pursue in whatever concerned the dignity and rights of his country. It was, therefore, a matter of universal congratulation, that the affair, so weighty in itself, and so momentous in its consequences, had fallen into the hands of these negotiators. We shall now attempt a brief sketch of their proceedings.

In his first communication, Lord Ashburton proposed not to renew the "interminable discussion," as he called it, on general grounds, but to come directly to the matter in hand; to which Mr. Webster acceded. Yet his Lordship could not refrain from deviating so far from the course he had prescribed, as to touch upon this discussion in a manner, that called out a reply from Mr. Webster, and tempted the Maine Commissioners to open upon his Lordship the whole battery of the old controversy. By a wise forbearance, however, there was a lucky escape from this snare. Some degree of sensitiveness is observable, also, on both sides, as to the light in which the concessions they were about to make should be regarded. They seem strenuous to have it appear, that they are not to be understood as conceding any thing, that their claims are indisputable, and that whatever each may grant to the other must be taken as a voluntary sacrifice to the desire of conciliation. We remember a similar show of sensitiveness in the negotiation of the treaty of 1783. The British ministry were extremely reluctant to frame the treaty in such a form, that independence should seem to be conceded to the United States without an equivalent; as if it were something in their possession, which they were about to bargain away. They would exchange it as the price of peace. The Americans claimed it as their right. Hence many of the difficulties and the long delays attending the preliminaries of that negotiation. In the present instance, we perceive symptoms of a similar feeling. Perhaps it is natural; and yet, it looks more like a shadow than a substance, especially when the object is conciliation on the basis of a compromise.

No essential embarrassments, however, were interposed

by these considerations. Lord Ashburton first suggested a boundary line, which should run due north from the St. Croix to the St. John, and thence along that river to some one of its sources; with the exception of the Madawaska settlements, situate on both sides of the river; and here he required the line to be drawn so far south as to include all these settlements within the British possessions. He is sentimental on this point, and seems almost to make it a *sine qua non*. "There would be evident hardship, I might say cruelty," he observes, "in separating this now happy and contented village. I cannot in any case abandon the obvious interests of these people." Moreover, they had "lately sent a petition to the Queen," imploring her Majesty's protection, and deprecating the hard fate of being surrendered to the United States. His Lordship does not inform us, at whose instance the petition was procured. One would think these poor people were to be consigned over to Turkey or Morocco, or forced under the dominion of barbarians. The Commissioners of Maine, callous to this pathetic appeal, put the question at rest, by declaring, in positive terms, that they would not in any event agree to bring the line at this place south of the St. John. Mr. Webster was equally decided. Making all due allowance for his Lordship's sympathies, he could not admit, "as far as political relations are concerned," that there was any *cruelty* in the case. In fact, these sympathies were of recent origin. By the award of the King of the Netherlands, the line was to separate these settlements; and yet the British government acceded to that award without making any reservation to soften the hardship of the settlers, who would be so unfortunate as to fall under the jurisdiction of the United States. As a part of his first proposition, also, the British negotiator said he was prepared to concede the right of navigating the St. John.

After this primary stage of the negotiation, we learn little of the details. The business was transacted chiefly by conferences, the particulars of which are presumed not to have been recorded. The principles, reasons, and results, are sufficiently explained by the treaty itself, and by the published documents. The northeastern boundary, as finally agreed upon, proceeds in a due north line from the monument to the river St. John, thence up that river to the mouth of the St. Francis, and along the St. Francis to its outlet from the

Lake Pohenagamook. It then turns southwesterly, and runs mostly in a straight line, in a direction nearly parallel with the St. John, to the Matjarmette portage between the head waters of the Penobscot and Chaudière rivers, and from that place along the crest of the highlands to the Connecticut River. As a territorial division, this line is more favorable to Great Britain, than that designated by the King of the Netherlands, since it leaves on the British side, at the foot of the highlands west of the St. Francis, somewhat over half a million of acres more than was assigned by the award. It is estimated, however, that the portion south of the present dividing line, and within the limits of Maine, is, in value, at least four fifths of the whole. The lands north of the St. John are sterile, little fitted for cultivation, and almost destitute of lumber; whereas the territory at the south, particularly the valley of the Aroostook, is rich and fertile, and covered with a heavy growth of good timber. This consideration, however, is of small moment, compared with the national interests involved in the question; and, although Lord Ashburton puts it in as a make-weight, it evidently went but little way towards reconciling the Commissioners of Maine to the new dividing line. A right in perpetuity to the navigation of the St. John for all the products of the forest and of agriculture, with precisely the same privileges that are allowed to similar products in New Brunswick, may of itself be regarded as an equivalent for the barren lands ceded on the north of that river. And in this equivalent Massachusetts participates, for the lands owned by that State within the territory will be increased in value by having this outlet for their products.

Such is the bearing of this part of the treaty on the States most intimately concerned. Let us follow it farther in its application to the United States. By the treaty of 1783, the boundary line was to run to the "northwesternmost head" of the Connecticut River, down that river to the forty-fifth degree of latitude, and along that parallel of latitude to the River St. Lawrence. There was a dispute as to which branch of the Connecticut was intended, the British claiming the main branch, and the Americans one farther west, called "Hall's Stream." The space between them contained a tract of one hundred thousand acres. Again,

the parallel of forty-five degrees was the old boundary of Canada, which had been surveyed before the Revolution. By more recent surveys, it was ascertained that this line was erroneous, and that the true line coincided with it only at one point near the St. Lawrence, and then diverged southerly through its whole course to the Connecticut River, where the distance between them was three quarters of a mile, thus cutting off a triangular strip from New York and Vermont, including Rouse's Point near the north end of Lake Champlain. This point had been selected by the American government as a military post of great importance, on account of its commanding the entrance into the lake from the River Richelieu; and, at the close of the last war, a fortification was erected there at a heavy expense to the nation.

In the reference to the King of the Netherlands, three distinct points were submitted to his arbitration. First, the northwest angle of Nova Scotia, and the highlands mentioned in the treaty; secondly, the northwesternmost head of the Connecticut River; thirdly, the line which should be adopted as the parallel of forty-five degrees. We have seen how he disposed of the first. The two others he decided in favor of Great Britain, cutting off one hundred thousand acres of land from New Hampshire, and, according to an estimate by Mr. Benton, about forty thousand from Vermont and New York; or fifty-seven thousand as estimated by Mr. Choate; reserving Rouse's Point, however, and a small tract around it, to the United States. As the award was not accepted, the dispute still existed, and the British claim to the triangular strip, and to Rouse's Point, with the fortification standing upon it, was demonstrable. To bring the boundary down from the mountain ridge into the sterile region between the St. Francis and the head waters of the St. John, with the view, no doubt, of pushing it as far as he could from Quebec, Lord Ashburton consented to cede the triangular strip, and relinquish the claim to the disputed tract at the head of the Connecticut. This was proposed on condition that Maine should acquiesce in the boundary throughout, as it has already been described. And here we have the equivalent for the three hundred thousand dollars paid by the United States to Maine and Massachusetts, as an indemnity for the half million of acres given up at the foot of the highlands.

This acquisition, on the north of New York and Vermont, is of very great value to the nation. Incidentally those two States are gainers by it; and the people, inhabiting the land in question, are retained within their country. But the possession of Rouse's Point is of a vastly higher consideration. In the opinion of all military men, this post is more important than any other on the whole line of the frontier. The history of the wars in America, during the last century, teems with memorable events that occurred on the waters and the borders of Lake Champlain. It is true enough, that Great Britain will never invade the United States from Canada for the purpose of conquest, but, with Rouse's Point at her command, her armed vessels would at all times have access to Lake Champlain, and in a few hours an army might be transported into the very heart of the country, and within two days' march of Albany. Hence, in the event of a war, it would be necessary to keep a large military force constantly in that neighbourhood for defence, at a charge, for a single campaign, much beyond the amount paid by the nation to our own citizens as an equivalent in adjusting the late disputes. The acquisition of this military post, therefore, viewed prospectively, cannot fail to strike every thinking mind as most valuable and important.

The negotiation did not stop here. The boundary, running through the rivers and lakes beyond the point where it meets the St. Lawrence, had been partly arranged by the commissioners acting under the treaty of Ghent, to the mutual satisfaction of the two governments. Upon a few important points they could not agree, and these were left unsettled. Islands, and channels, and a territory of four millions of acres northwest of Lake Superior, were still in dispute. The negotiators undertook a revision of the whole line, with the aim of permanently adjusting it throughout, and of putting it beyond the hazard of further controversy. In regard to this part of the negotiation, Mr. Rives, in his speech before the Senate, justly remarks, that "a question of disputed boundary between adjacent territories, now rapidly filling up with a hardy and enterprising population, is attended with constant danger to the peace of the two nations. The acts of ill-advised individuals, of small detachments of troops, or of subordinate local authorities, may at any moment bring on a conflict, in which the two countries would

be committed to the stern issues of war, against their own deliberate policy and will." If we consider the long extent of this line, therefore, the proximity of the inhabitants in many places on the two sides of it, and their constantly increasing numbers, this adjustment will appear by no means the least important part of the treaty. A valuable island, called St. George's, or Sugar Island, in the water communication connecting Lake Huron with Lake Superior, said to contain more than twenty-five thousand acres of fertile land, and also Isle Royal, near the northern extremity of Lake Superior, both of which were claimed by the British commissioner, have been confirmed to the United States; as likewise the disputed tract of four millions of acres beyond the lake, a rocky and barren region, reputed to be of no great value for agriculture, but from which the President, in his message to the Senate, anticipates considerable benefit as a mining district. Again, by the treaty of 1783, the line was to run through the middle of the rivers and lakes. This naturally left the only navigable channel in several places on one side, and no provision was made for the common use of these waters. Serious inconveniences and altercations might, therefore, happen, if either party should practically insist on its title of right. To prevent such consequences, remove all occasions of discord, and encourage mutual harmony and good feeling among the borderers, these channels are now thrown open to the free navigation of the citizens and subjects of both countries.

From the Lake of the Woods to the Rocky Mountains the boundary had already been decided. We thus have a complete boundary throughout our eastern and northern borders, well defined, after a long series of careful and accurate surveys, extending more than three thousand miles from the St. Croix to the Rocky Mountains, satisfactory to both parties, and established by the solemn pledges of a treaty. If the negotiators at Washington had accomplished no other achievement than this, it would be enough to secure to them the unqualified praise and lasting gratitude of their countrymen.

We shall now touch upon a subject, which demands notice not so much on account of its intrinsic importance at present, as because it has been made a prolific theme of discussion since the treaty was ratified. We mean the unattrac-

tive controversy about maps. It would seem, that, while the treaty was before the Senate for the action of that body, the Secretary of State communicated to Mr. Rives, Chairman of the Committee of Foreign Relations, the copy of a letter from Dr. Franklin to Count de Vergennes, with the copy of a map, the originals of both of which had been seen by Mr. Sparks in one of the public offices in Paris; and also an extract from a letter which he had written on the subject to the Secretary of State. These papers were considered of sufficient consequence to be produced in the Senate during the debate on the treaty. The following is the extract from Mr. Sparks's letter, (dated February 15th, 1842,) as published in Mr. Rives's speech.

"While pursuing my researches among the voluminous papers relating to the American Revolution in the *Archives des Affaires Étrangères* in Paris, I found in one of the bound volumes an original letter from Dr. Franklin to Count de Vergennes, of which the following is an exact transcript.

'Passy, December 6th, 1782.

'SIR; I have the honor of returning herewith the map your Excellency sent me yesterday. I have marked with a strong red line, according to your desire, the limits of the United States, as settled in the preliminaries between the British and American plenipotentiaries.

'With great respect, I am, &c.

'B. FRANKLIN.'

"This letter was written six days after the preliminaries were signed; and, if we could procure the identical map mentioned by Franklin, it would seem to afford conclusive evidence as to the meaning affixed by the commissioners to the language of the treaty on the subject of the boundaries. You may well suppose that I lost no time in making inquiry for the map, not doubting that it would confirm all my previous opinions respecting the validity of our claim. In the geographical department of the Archives are sixty thousand maps and charts; but so well arranged with catalogues and indexes, that any one of them may be easily found. After a little research in the American division, with the aid of the keeper, I came upon a map of North America, by D'Anville, dated 1746, in size about eighteen inches square, on which was drawn a *strong red line* throughout the entire boundary of the United States, answering precisely to Franklin's description. The line is bold and distinct in every part, made with red ink, and apparently drawn with a hair-

pencil, or a pen with a blunt point. There is no other coloring on any part of the map.

"Imagine my surprise on discovering that this line runs wholly south of the St. John, and between the head waters of that river and those of the Penobscot and Kennebec. In short, it is exactly the line now contended for by Great Britain, except that it concedes more than is claimed. The north line, after departing from the source of the St. Croix, instead of proceeding to Mars Hill, stops far short of that point, and turns off to the west, so as to leave on the British side all the streams which flow into the St. John, between the source of the St. Croix and Mars Hill. It is evident, that the line, from the St. Croix to the Canadian highlands, is intended to exclude *all the waters* running into the St. John.

"There is no positive proof that this map is actually the one marked by Franklin; yet, upon any other supposition, it would be difficult to explain the circumstances of its agreeing so perfectly with his description, and of its being preserved in the place where it would naturally be deposited by Count de Vergennes. I also found another map in the Archives, on which the same boundary was traced in a dotted red line with a pen, apparently copied from the other.

"I enclose herewith a map of Maine, on which I have drawn a strong black line, corresponding with the red one above mentioned."

Mr. Rives then remarks, "I am far from intimating that the documents discovered by Mr. Sparks, curious and well worthy of consideration as they undoubtedly are, are of weight sufficient to shake the title of the United States, founded on the positive language of the treaty of peace. But they could not fail, in the event of another reference, to give increased confidence and emphasis to the pretensions of Great Britain, and to exert a corresponding influence upon the mind of the arbiter." While Mr. Rives was still speaking, another map was brought forward by Mr. Benton, the senator from Missouri, with the view, as Mr. Rives understood it, of confronting and invalidating the map alluded to in the above extract, but, as Mr. Benton afterwards said, for the purpose of showing that the red lines were no secret. Be this as it may, the map turned out to be of such a character as to excite some degree of surprise in the Senate. After describing it in general terms, Mr. Rives adds,

"Here, then, is a most remarkable and unforeseen confirmation of the map of Mr. Sparks, and by another map of a most

imposing character, and bearing every mark of high authenticity. It was printed and published in Paris in 1784, (the year after the conclusion of the peace,) by Lattré, *graveur du Roi*, (engraver of maps, &c., to the King.) It is formally entitled, on its face, a 'Map of the United States of America, *according to the Treaty of Peace of* 1783.'—(*Carte des États Unis de l'Amérique, suivant le traité de paix de* 1783.) It is 'dedicated and presented' (*dediée et presentée*) 'to his Excellency Benjamin Franklin, Minister Plenipotentiary of the United States of America, near the court of France,' and while Dr. Franklin yet remained in Paris; for he did not return to the United States till the spring of the year 1785. Is there not, then, the most plausible ground to argue, that this map, professing to be one constructed 'according to the Treaty of Peace of 1783,' and being 'dedicated and *presented*' to Dr. Franklin, the leading negotiator who concluded that treaty, and who yet remained in Paris while the map was published, was made out with his knowledge, and by his directions; and that, corresponding as it does *identically* with the map found by Mr. Sparks in the Archives of the Foreign Affairs in Paris, they both partake of the same presumptions in favor of their authenticity?"

The coincidence between these two maps is certainly remarkable; but we would observe, that Mr. Sparks does not intimate that he saw any writing or other marks on the map mentioned by him, except the red boundary line, from which it could be even inferred, that this was the identical map alluded to in Franklin's letter. There is nothing like positive proof, therefore, in the case, though the presumptive evidence is strong. Mr. Buchanan, Mr. Benton, Mr. Woodbury, and other senators, who spoke against the treaty, made light of this map, as the tenor of their arguments required, calling it an old map, and a French map, adding, that on all the old French maps the southern boundary of Canada is pushed too far down. But we are authorized to say, that this red line has no connexion whatever with any old boundary of Canada; that it is a line drawn by hand with remarkable distinctness and precision, not upon an engraved line, and not merely along the highlands south of the St. John, but throughout the entire circuit of the United States, in exact conformity with the treaty, even running out to sea, and pursuing its direction, at the adjudged distance of twenty leagues, parallel with the coast, from the mouth of the St. Mary to that of the St. Croix. There is another circum-

stance, also, which shows the care with which this red line was drawn. On D'Anville's map, the latitude of forty-five degrees runs much too far south, coming down in fact almost to Crown Point. Now the red line, after descending the Connecticut River for some distance, turns off to the west before it reaches the latitude of forty-five degrees on the map, and proceeds in a direct course to the St. Lawrence, so as to pass near the head of Lake Champlain, which is the true position. This is a proof, that the person who drew the line knew the geography of that part of the country, saw the error of the map, and corrected it.

As to Lattré's map, described by Mr. Rives, there is no certainty of its having been seen by Dr. Franklin before its publication. It is probable, and that is all. As far as this probability goes, it may strengthen the presumption, that the map in the Archives is the one sent by Franklin to Count de Vergennes. In each case, we have no more than presumptive testimony. The fact, that such maps exist, however, of so early a date, is a consideration of some moment.

There are other maps of a similar character, which could not have originated in the same source. A revised edition of De Lisle's Map of Canada, published in Paris in the year 1783, purports to exhibit the northern boundary of the United States. The title of this map boasts of its having been corrected and improved from many printed and manuscript materials (*un grand nombre de relations imprimées ou manuscrites*). The boundary line, from the source of the St. Croix to the Canadian highlands, is drawn south of the St. John, and in such a manner as to exclude all the waters of that river from the territory of the United States. It is a dotted line, engraved, and distinctly marked by a red border on the British side, and a green one on the American, running in contact with each other. After arriving at the highlands near the head waters of the St. John, this line takes a devious course, winding its way into Canada as far as the River St. François, and thence in a southeasterly direction to Lake Champlain, which it crosses a full degree too far south. In all this part it is extremely inaccurate, and could not have depended on any information derived from Franklin, although he was then in Paris. By what authority the line was made to run south of the St. John can only be conjectured.

There is, likewise, a copy of Mitchell's map, which formerly belonged to Baron Steuben, but which, we believe, is now in the possession of the government. On this map, the boundary of the United States is delineated, throughout, by a broad and bold red mark, drawn by hand, and it runs south of the St. John; made with less precision, indeed, than the line on the map in the Paris archives, but it is substantially the same. A gentleman now living saw this map fifty years ago in the library of Baron Steuben, with the red line then existing as it now appears. It could not have been copied from either of the French maps mentioned above, for, in such case, the part of the line in question would have been executed with more exactness.

We have before us a curious German map of the United States, by Güssefeld, ("Charte über die XIII. Vereinigte Staaten von Nord-America,") published at Nuremberg, in 1784, in which the boundary is very distinctly drawn, and follows the highlands south of the St. John. The author says, in a French note engraved on the margin, that he had constructed it from the best English maps (*d'après les meilleures et speciales cartes Anglaises*). This was the year after the ratification of the treaty, and it is the more remarkable, as we believe no English map has been found, of an earlier date than 1785, in which the boundary does not run on the northern highlands, as claimed by the United States. The line in question could hardly have been copied from Lattré's map, because, although it is in all essential points the same, it is by no means identical with it.

Faden's map, of 1785, is the earliest English authority of this kind, as far as our knowledge extends, which has been produced in vindication of the British claim. On this map, the boundary runs south of the St. John. A copy of it, brought over by Lord Ashburton, was exhibited for the edification of the Maine Commissioners. They seem neither to have been captivated with its charms, nor convinced by its red or black lines. They call it a "small one, and of small pretensions," and allow themselves to utter a hard insinuation against the motives of its author, the King's Geographer. But this is not much to the purpose, since the line is there notwithstanding, and is acknowledged to have been put there when the map was made.

Mr. Featherstonhaugh, in his recent pamphlet on the

Treaty of Washington, lets us into the secret of another "ancient map discovered in one of the public offices in London, after the departure of Lord Ashburton, which had been apparently hid away for nearly sixty years, with a *red line* drawn upon it exactly conforming to the British claim." He says, "No doubt was entertained, that this was one of the maps used by the negotiators of 1783, and that the *red line* marked upon it designated the direction of the boundary they had established. But this map was not signed, *and could not be authenticated.*" We are left to infer, that this was the reason why it was not sent over to Lord Ashburton, to aid him in the negotiation.

Such is the testimony of maps on one side. We now turn to the other. In the first place, there were at least four distinct maps of the United States, expressly designed to show the boundaries, published in London during the interval between the signing of the preliminaries and the ratification of the treaty by Great Britain. These were Sayer and Bennet's, Bew's, Willis's, and Cary's. All these maps exhibit the boundaries exactly as claimed by the United States. The first two were issued a few days before the debate in Parliament on the preliminary articles, and it cannot be doubted that they were known to the members, and understood by them as presenting an accurate delineation of the boundaries. Not a word to the contrary appears in any one of the speeches, although the large extent of the boundaries was made a topic of severe comment by some of the opposition members.

But a map worthy of more consideration, perhaps, than either of these, is that published in London in the year 1783, by the same William Faden, who, two years afterwards, perpetrated the act of sending into the world the "small map" to which the Commissioners of Maine took such exceptions. His first map, of which we are now speaking, is stated on the face of it to be drawn "*according to the treaty*"; the engraved and colored lines are designed for this special object. It was probably published before the signature of the definitive treaty, or at least soon afterwards, for that event took place in September of the same year. It is about two feet square, and the boundaries marked on it correspond with the greatest exactness to the American construction of the treaty. As a proof that the attention of the delineator was drawn particularly to the northeastern boundary, we have

only to cite the following printed note, attached, among others, to the margin of the map; "The Province of Sagadahock is a *new concession.*" The tract intended by this "new concession" is colored green, and stretches across the basin of the St. John to the ridge of the Canadian highlands. There are many other notes on the margin, explaining the boundary in different places, all tending to show that the work was executed with extreme care. And perhaps no man in England was more competent to such a task. He was eminent in his profession, and had engraved nearly all the maps and plans, published by authority, illustrative of the movements of the British army during the war of the Revolution. He could not, therefore, be ignorant of American geography. He even takes the trouble to exhibit an estimate, in figures, of the extent of territory conceded in various parts to the United States by the treaty, beyond what belonged to the Colonies under the old charters. Putting all these circumstances together, we are bound to regard this map as conclusive evidence of the state of opinion on the subject at that time in England, among those who were the most capable of forming a correct judgment.

Besides the maps here enumerated, Mr. Gallatin speaks of seven others, made within two years after the signature of the preliminary articles, all of which agree with these five; and, as we have before observed, no map published in England within the same period has been produced, which gives countenance to any other line of boundary. We deem these facts the more weighty, as Mr. Oswald, the British Commissioner for negotiating the treaty, was in London when the earliest maps were made; and there is the strongest probability that he was consulted by the map-makers on a subject of this nature; quite as strong as that Dr. Franklin was consulted for the same purpose in Paris; or, at all events, that Mr. Oswald would take care, by some public manifestation, to correct errors of so grave an aspect derived from a false construction of the treaty. Nor would these errors, if they were such, have been overlooked by the ministers, who were vehemently assailed on account of the large concession of boundaries. We hear of no such correction from any quarter, nor of any assertion or insinuation, that the maps were erroneous.

When we descend to later dates, we still find English

maps, of the highest authority, containing the same boundary, notwithstanding the example of Faden's second effort. And these are even copied by some of the best French maps, in defiance of Lattré and the amended edition of De Lisle. In the *Atlas Universel*, by Robert, published at Paris in 1757, there is a map of Canada, on which the northern and eastern boundary of New England is laid down as since claimed by the United States under the treaty of 1783. Some time after the negotiation of that treaty, a new edition of the Atlas was published, with additions and alterations; but the boundary line in question remains the same, although the editor, under the head of *Limites des États Unis*, quotes the second article of the Treaty, which relates to the boundaries, and implies that he considered no change of the first edition of the map necessary, in order to meet the terms of that instrument. On our table lie three maps of the United States by Tardieu, published at different times in Paris, one of them on a large scale, on each of which the boundary is drawn as claimed by the United States, with a slight deviation in one part. The north and south line, after crossing the St. John, and reaching the source of the Ristagouche, turns a little to the west, and seeks its way to the Canadian highlands, so as to avoid the head waters of that river. This is in exact accordance with Mr. Hale's line, and with Mr. Buller's northwest angle. We have also before us an elegantly executed German map of the United States, by Reichard, belonging to the Ebeling Collection in Harvard College, published at Nuremberg in 1809, which gives the boundary exactly as claimed by the Americans. And, indeed, innumerable testimonies might be accumulated to show, that such has been the general sense of European geographers, as well on the continent as in England.

We shall here dismiss this subject of the conflict of maps. It has run to a greater length than we intended. We confess it is extraordinary, nor shall we venture upon the hopeless task of explaining or reconciling its difficulties, or of bringing light out of darkness. As far as it goes, however, the weight of the argument from this source preponderates heavily on the American side; immeasurably so, if we estimate it by the number of maps; but less so, it may be conceded, if the relative authority of the principal ones only be regarded. We must hold to the conviction, nevertheless,

that Mr. Oswald, or the British ministers, or both, were consulted in the execution of the first English maps. The presumption is so strong, that nothing short of absolute demonstration to the contrary can weaken this belief. We allow it is probable, and nothing more, that Franklin was consulted for a similar object in Paris. An idea has been thrown out, on the supposition of the red line on D'Anville's map having been drawn by Franklin, that he was mistaken. This is an easy way of solving the problem, if the fact could be proved. If this red line rested on Franklin's authority alone, such an idea might possibly be more than a shadow. As we have only probabilities in the case, it is, in our opinion, much more probable that he did not draw the line, than that he should not understand the treaty, six days after it was signed, which he had been as many months in negotiating. But what shall we do with the four maps, emanating from different sources, of which it is not pretended that Franklin had any knowledge? These are all separate authorities, and they accord with the supposed Franklinian red line. Besides, why should we conjecture Franklin to have been mistaken, any more than Mr. Oswald, or the British ministers, or the English map-makers? Since we must admit an error on one side or the other, and admit, also, that we know nothing more about it, let us do justice to both parties, and at least allow them the grace of dividing the mistake between themselves, until we can place it on the right shoulders by some clear and indisputable evidence. It is a matter of serious regret, that the opinions of Mr. John Adams and Mr. Jay, in regard to this boundary dispute, were never publicly expressed. The former lived twelve years, and the latter fifteen, after the Treaty of Ghent, and yet nothing has been communicated to the world, from which their sentiments can be known or even inferred. This silence is the more remarkable, as they had given their testimony in the case of the St. Croix; and, if similar testimony had been proffered in relation to the northeastern boundary, it could hardly have failed to produce a speedy settlement of the question. Until the opinions of these commissioners can be ascertained, from undoubted authority, it is neither just nor reasonable to throw the burden of error upon Dr. Franklin.

In escaping from this labyrinth of conflicting maps, we shall remark only, that it affords another proof of the wisdom of the course adopted by the negotiators, in setting aside the

old controversy, and seeking a new arrangement upon the untried and pacific principles of a compromise.

We have a word to say on the topic, to which public attention has been called since the ratification of the treaty. Some of the English and Canadian journals, in language which it would not adorn our pages to repeat, and which we are by no means in a humor to retort, have censured the American negotiator for withholding from Lord Ashburton a knowledge of Franklin's letter and the map seen by Mr. Sparks in the Paris Archives. What foundation can there be, on the grounds of equity, reason, or courtesy, for this censure? It was neither agreed nor understood by the negotiators, that each should show to the other all the materials in his possession. What could have been more unwise or indiscreet than such a proceeding? It would have plunged them at once into the Serbonian bog of the old controversy, from which they might never extricate themselves, and which they were taking all possible pains to shun. With this "gulf profound" before his eyes, Lord Ashburton very prudently kept back the "volume of additional matter" which he had brought with him, although he did venture to produce a map in favor of his own side. Even this experiment was somewhat perilous, for it roused the belligerent spirit, instead of cooling the ardent zeal, of the Maine Commissioners. Besides, this Paris map was unauthenticated; and, for this reason, if for no other, it could not have been formally introduced into the negotiation. The same reason operated against transmitting to Lord Ashburton the map discovered in the British offices after his departure. If this map could not be considered as valid testimony, why should another of precisely the same character? It is possible, nay, highly probable, that there are papers and maps in the British offices favorable to the American claim; but no one ever dreamed that Lord Ashburton was bound to produce such materials, even if they were among the contents of his portfolio.

Again, suppose the disclosure to have been made, and Lord Ashburton to have attached the importance to the Paris map and letter, which some persons have since imagined them to deserve. Could he have negotiated at all? Must he not have said, that these were new facts, unknown to the ministers at the time his instructions were given, and that his duty required him not to proceed without communicating them for consideration? And if the ministry had viewed

them as of sufficient weight to add an essential advantage to the British claim, would they or could they have authorized a treaty on the basis of their first instructions? We ask these questions on the supposition, that the knowledge should have been deemed important. If it were not so deemed, it was of no moment whether it was communicated or not. All the world knows, that a treaty more favorable to England could not, in any event, have been obtained. In the treaty, as it now stands, the Commissioners of Maine, with all the facts before them, were brought to acquiesce with a reluctance amounting almost to a refusal. Their last note to Mr. Webster, in which their final decision was to be embodied, is an argument against the treaty; and the reader is taken by an agreeable surprise to find their assent in a short paragraph at the end, apparently at variance with their own convictions. It would seem, as if they had determined at first to reject the treaty, although they were informed that it was the best they could hope to procure, and had drawn up their paper accordingly; but, changing their minds afterwards, and unwilling to lose so good an argument, they concluded to yield their assent, coupled as it was with their reasons to the contrary. However this may be, it is perfectly certain that any arrangement less favorable to Maine would not have been listened to for a moment by the Commissioners or the people of that State. If Mr. Webster had taken a course, therefore, which should have aided and strengthened the British claim, and raised higher the demands of the British government, besides the absurdity of such a step, the treaty must inevitably have failed. And what would have been said of such a result, brought about in such a manner? Would not the whole world have cried out against it, as the most consummate folly that a wise or weak man, in his senses or out of them, could be guilty of? It was not a private bargain which the American negotiator had to transact. A responsibility of a much more solemn nature rested upon him. He had the opinions, the will, and sensitive feelings of a great people to consult, their rights to maintain, and their interests to protect. Was it ever known, that two negotiators came together, and commenced their work by disclosing, each to the other, a new collection of facts or materials which should weaken his own cause? If it can be conceived, that ambitious motives might tempt them privately to connive at such an act, for the sake of success in their undertaking, would

they stand justified in the eyes of the government and people of the respective countries, whose claims they were deputed to assert and support? We repeat, it was not a bargain between individuals, in which each party could do as he pleased, and take into view personal considerations only; it was a national trust of the highest character, which was to be fulfilled with strict fidelity to the interests of those who had placed it in the negotiators' charge.

In this sense, and in every sense, Mr. Webster's course was dictated by scrupulous propriety, by usage in similar cases, and by the soundest wisdom and discretion. He laid before the Maine Commissioners all the facts, from which they might understand the true position in which the controversy would be placed, if it were renewed and continued. This disclosure was due to them, as representatives of that portion of the country most deeply concerned in the negotiation. It was due to the nation, as the means of promoting an amicable compromise. Nor can there be any doubt, that the Commissioners of Maine were influenced to a considerable extent by the Paris letter and map; for, whatever might be their real value, since they were open to the discovery of the British government, they might have been used with effect in another arbitration. Mr. Calhoun expressed his conviction, in the Senate, that in such an event they were "calculated to add no small weight to the British claim"; and, if the treaty should fall to the ground, a second reference would be the only resort. To have shown these papers to Lord Ashburton could not possibly have done any good, and it might have done infinite mischief; to show them to the Commissioners of Maine was giving them information which they had a right to possess, and by which they were enabled to act with intelligence for the honor and best interests of their immediate constituents and of their country. The advantage, whatever it might be, of this mode of proceeding was in reality as much on the side of Great Britain as on that of the United States. Lord Ashburton himself, and the British ministry, if they attach any importance to this information, must be thankful that it was withheld from them, and that the hazard of again stirring up and embroiling all the old difficulties, with a worse prospect than ever for the future, was thus happily avoided. A treaty, meeting the approbation of a large majority of both nations, has been negotiated and confirmed; tranquillity has been restored to

the public mind; and a breach, which at one time threatened alarming consequences, has been healed and closed for ever. This has been done, in part at least, and perhaps in the turning point, by the admirable judgment of the American negotiator in the use of his materials, without injury to either party, and with incalculable benefits to both.

Again, some of the British journalists, in a spirit of querulous discontent, take exceptions to a part of one of Mr. Webster's letters to Lord Ashburton, because, as they will have it, he expresses a confidence in the validity of the American claim, not consistent with his knowledge of the Paris map. If any one imagines there is the least weight in this charge, we would only recommend to him a perusal of the correspondence. In the able argument, to which we have before alluded, Mr. Webster confines himself to the single point of interpreting the language of the treaty of 1783, and expressly abstains from "all historical facts, contemporaneous expositions, and external circumstances." It is his sole aim to show, by a condensed and logical train of reasoning, founded on the words of the treaty itself, that the most obvious sense of these words clearly supports the American claim. Surely such an argument may be allowed to stand on its own merits, without subjecting its author to censure for not mingling with it the hopeless controversy about maps, or encumbering it with extraneous facts and conjectures, with neither of which was it in any manner connected.*

We come now to another branch of the treaty, which cannot be more applauded for its object, than for the well-defined and strict rules of reciprocity upon which it is constructed. By the Treaty of Ghent it was declared, that the traffic in slaves is "irreconcilable with the principles of humanity and justice," and the contracting parties agreed to use their best endeavours to accomplish its abolition. In conformity to this declaration and agreement, a law was passed by Congress denouncing this infamous traffic as piracy, and threatening the penalties of that crime to any citizen of the United States, who should be detected in prosecuting it. The example has been followed by Great

* We have been favored with the perusal of a manuscript paper, written by Mr. Grattan, the British Consul in Boston, in which the argument on the British side of the boundary question is stated with more method, clearness, and force, than we have anywhere seen in print.

Britain and other countries. Treaties have likewise been entered into between Great Britain and some of the principal maritime powers of Europe, for the purpose of a mutual coöperation in the suppression of the slave trade. By these treaties, the right is conceded to each party of boarding and searching merchant vessels sailing under the flag of the others in the African seas, with the view of ascertaining whether they are concerned in the slave trade, made illegal by the special laws of the respective parties. This is solely a right of compact, and not pretended to be derived from the laws of nations. For reasons, which we have no room here to explain, but which have been abundantly elucidated by our statesmen, the government of the United States declined joining in an arrangement which should subject merchant vessels, bearing the flag of the Union, to be searched and detained in their voyage on the high seas by the armed cruisers of other powers. These reasons were ably enforced more than twenty years ago by Mr. Adams, in his correspondence with Mr. Stratford Canning. As the laws of the United States, however, prohibited the slave trade under the severest penalties, it was desirable and requisite that a public force should be employed on the coast of Africa for this object, as far as it could be done without weakening the naval armaments necessary for protecting our commerce in other parts of the world. In fact, such has been the employment of a portion of the navy for many years. An arrangement with any power, therefore, by which the object should be more speedily and effectually attained, under such regulations as would secure the independence of our flag, could not but be deemed exceedingly important. A stipulation to this effect, between Great Britain and the United States, on the principle of mutual coöperation, constitutes the eighth article of the Treaty of Washington, in the following words.

"The parties mutually stipulate, that each shall prepare, equip, and maintain in service, on the coast of Africa, a sufficient and adequate squadron, or naval force of vessels, of suitable numbers and descriptions, to carry in all not less than eighty guns, to enforce, separately and respectively, the laws, rights, and obligations of each of the two countries, for the suppression of the slave trade; the said squadrons to be independent of each other, but the two governments stipulating, nevertheless, to give

such orders to the officers commanding their respective forces, as shall enable them most effectually to act in concert and coöperation, upon mutual consultation, as exigencies may arise, for the attainment of the true object of this article; copies of all such orders to be communicated by each government to the other respectively."

These words are so precise and explicit, that it is scarcely possible for two persons to form different ideas of their exact and literal meaning; yet the President of the United States is supposed to have drawn an inference from them, which Sir Robert Peel, as the organ of the British government, has thought proper to disavow. The merits of the question, in all its bearings, we shall not attempt to discuss. A brief outline of its principal features will be enough for the general purpose of explanation.

The British government, in carrying into effect their treaties with other powers, and executing their own laws against the slave trade, assumed the novel right, and adopted the practice, of boarding and searching vessels sailing under the American flag, which were suspected, by the commanders of British cruisers, of being concerned in this traffic. The consequence was, that several American vessels, engaged in lawful commerce, were interrupted and detained on their voyage, and some of them seized and turned over to the British tribunals for adjudication. A proceeding so unjustifiable naturally brought out complaints and remonstrances. These were laid before the British government by Mr. Stevenson, the American minister in London. In the correspondence on this subject, Lord Palmerston, the Secretary of State for Foreign Affairs, advanced doctrines which at first sight presented a startling aspect. He seemed to claim the right for the officers of British armed cruisers, under the instructions of their government, to board and search American vessels on the high seas in time of peace, and to decide whether they were or were not engaged in a lawful trade; although, in his subsequent communications, he modified his expressions in such a way as to imply that the right he meant was that of *visitation*, or of *inquiry*, and not of *search*. Mr. Stevenson, however, could not perceive that his Lordship's distinctions amounted to a difference. The substance and reality of the thing itself is not altered by giving it various names. He insists that "they are essential-

ly the same," and that the distinction is "wholly fictitious." Mr. Wheaton maintains the same ground in his learned treatise on the right of search, in which he investigates thoroughly and with much discrimination the laws and usages of nations upon these points. Mr. Duponceau defines the difference to be that between "fair lady" and "lady fair," and practically this is not a forced definition. The solid part of the objection is not against the mere act of visiting and searching, but against its purpose and consequences. It may be granted, that going upon a vessel's deck and reading her papers, or summoning the crew, breaking open the hatches, and inspecting the cargo, are not acts in themselves of precisely the same nature; but, if the object, intention, and consequences are the same in each case, we beg to know by what art of logic, or application of names, a real difference can be shown to exist. The visit is intended for something or nothing. If for nothing, it is an obtrusive and useless formality. If otherwise, it cannot be of the least importance, in principle or effect, whether the visiter searches the ship and inspects the cargo, or only examines the papers. It is left entirely to his judgment, after either of these acts, to decide upon the character of the vessel; and cases may occur where the papers are suspicious, in the opinion of the visiting officer, and an inspection of the vessel would prove that all was right. If the visit is necessary at all, a search is much more so, as affording the means of a proper judgment. In every view of the case, it would seem to be a more safe course, and one more likely to prevent mistakes and the consequent mischiefs, to allow the officer the right of search, than to require him to make up his mind upon the bare inspection of papers, and from general appearances. If he is to be the sole judge in so responsible and delicate an affair, as that of seizing and detaining a vessel sailing on the broad ocean under the flag of an independent power, it is certainly desirable that every possible source of knowledge should be open to him. Whatever distinction may be discovered, therefore, by a refined diplomacy, between the meaning of the words *visit* and *search*, it is perfectly obvious that, in their practical application, they are the same thing; or, if there is any difference, it is in favor of search, because it enables the officer to decide with more intelligence and better opportunities of ascertaining the truth. At any rate,

it is an unwarrantable stretch of sophistry to attempt to hide the deformity of the thing itself under the specious garb of attractive names.

Lord Aberdeen inherited the controversy from his predecessor in office ; and he endeavoured to smooth over the harsh features of the claim of right which had been set up ; but still he adheres to the claim, and undertakes to justify it upon broad principles. He says, it has been the invariable practice of the British navy "to ascertain by visit the real nationality of merchant vessels met with on the high seas, if there be good reason to apprehend their illegal character." If such has been the practice, it would appear to be a direct violation of the laws of nations, as expounded by one of the highest authorities in the British courts. Lord Stowell asserts, "that no authority can be found, which gives any right of *visitation* or *interruption* over the vessels and navigation of other states, on the high seas, except what the right of war gives to belligerents against neutrals." And such has been the practical interpretation by the British government in cases where their own interests were concerned. About four years ago, a law was passed in Hayti, by which vessels sailing under any flag, whether that of Hayti or of any other country, if found to be trading in slaves, were to be seized and taken into a port of the Republic for adjudication. The British government remonstrated against this law, on the ground, in the words of the official communication, "that, in time of peace, no ships belonging to one state have a right to search and detain ships sailing under the flag of, and belonging to, another state, *without the permission of such state*, which permission is generally signified by treaty." Now this is the identical ground upon which the United States resist the British pretension. We have only to put Great Britain in the place of Hayti, and the cases become exactly the same. But what is the *illegal character* on the high seas, mentioned by Lord Aberdeen, as recognized by all nations ? Piracy only ; piracy *by the laws of nations*, and not by the municipal laws of any particular country. Because Great Britain has declared the slave trade to be piracy, this declaration gives no right to stop and search the vessels of other nations upon the mere suspicion that they are violating this law. The slave trade is not piracy by the law of nations, nor can it be so till the maritime powers

shall generally, and by mutual agreement, recognize it as such. Any government may unquestionably instruct its cruisers to detain and examine vessels within its own waters suspected of smuggling. But this is a local right, and not applicable to the high seas. Nor is it the right of search in the case either of piracy or smuggling, which is resisted or questioned by the United States. The British government claims the right of searching vessels sailing under the flag of other nations, not upon the suspicion of piracy or smuggling, but as being engaged in a traffic unauthorized by the municipal laws of Great Britain; and not within her jurisdiction only, but on the high seas; and the argument used for this extraordinary practice is, that it is *necessary* for the execution of her own laws, and not the laws of nations. Such a pretension may well excite alarm; for where will it end? If the plea of necessity will sanction this proceeding for the execution of one set of laws, why not of another, till the ocean becomes the domain of the strongest naval power, over which jurisdiction may be exercised in the same manner as within the acknowledged waters of that power? Nor is this a theoretical discussion about the abstract principles of law; it is a downright practical matter of fact. True enough, the mere act of visit is nothing in substance. It is an insult, and that is all. So a stranger may open your door and look into your house. No harm is done. It is a piece of rudeness, and nothing more. If he enters, and disturbs your family, and breaks your furniture, you may then prosecute him for a trespass, and claim damages, and call in the laws to your aid. You may perhaps procure an *indemnity*, if you have patience enough to endure the vexations of a lawsuit. Is it not better that the conventional rules of society should be observed, and that strangers should not thrust themselves into your house without your consent?

But Lord Aberdeen tells us, "It is not *as American* that such vessels are ever visited." And, again, in the letter to Mr. Fox, he repeats, that Great Britain does not pretend to interfere with vessels of the United States, "*known or believed to be such.*" Let the case stand thus, and what then? The vessels are visited, nevertheless, while under the American flag, *not as pirates or smugglers*, but on *suspicion of violating a British law*, while traversing the broad ocean, where British laws can no more interfere with them than in

the harbour from which they sailed. Neither the breach of international law, nor the injury, is lessened in the least degree by supposing or believing them to have any other character than that indicated by the flag. When a vessel, engaged in lawful commerce, is visited, detained, and seized, what possible difference can it make to the owner, whether it is seized on suspicion of being one thing or another? Just as well might the commander of an armed cruiser of any nation visit, detain, and seize every English merchantman he should find on the ocean, and then say that the vessel was not visited *as English*, but on suspicion of violating some law of the country to which the cruiser belongs. What consolation can it be to an American trader, engaged in fair commerce, after he has been seized, taken into a British port in Africa, his cargo perishing, his crew falling victims to the climate, his voyage broken up, to be told that he was not seized as *an American*, but on suspicion of being concerned in a traffic not authorized by the laws of England? The British minister adds another consolation. He shall have an *indemnity*. Where will he find it, and when will it come to him? Why should he be subjected to the delays, vexations, and uncertainty of procuring such a relief? Recent examples would afford but poor encouragement to his hopes on this score. Besides, if he were successful, would this soften the outrage, or atone for the abuse, or restore the dignity of a violated flag? No nation, in time of peace, can submit to such an exercise of power by another, whether under the name of a pretended right, or any other name, without sacrificing its independence, and bowing to the will of a superior. Most assuredly it can never be submitted to by the United States; nor acquiesced in, unless by a mutual compact, implying a virtual renunciation, or at least a silent abandonment of the claim *as a matter of right*.

Lord Aberdeen's letter to Mr. Everett is regarded by the British government as the most plausible defence of this pretension, which has been put forth, if we may judge from Sir Robert Peel's speech in Parliament on the "Address." It does not remove the substantial objections, however, nor even diminish their weight. He only polishes a little the stone, which his predecessor had left rough-hewn. And we may further remark, that it was either not very courteous,

or a strange oversight, or defect of memory, in Sir Robert Peel, to declare and repeat, as he did in Parliament, that this letter had "remained fourteen months unacknowledged and unanswered," with a show of triumph in assuming that it was too much to be grappled with by the American minister in London, and the American Secretary of State. This same boast is likewise made to figure in the official letter to Mr. Fox. From the published correspondence, it appears, that the reception of the letter was acknowledged by Mr. Everett three days after it was written, and that he then gave notice of his intention soon to prepare a more formal answer, from which he was dissuaded by Lord Aberdeen himself, who said Lord Ashburton was furnished with full powers to treat on this question in Washington, and it was therefore unnecessary and inexpedient to discuss it further in London.

The President, in his message to Congress at the beginning of the last session, after alluding to the eighth article of the Treaty, and to his sentiments expressed in a former message against the right of search, proceeds to say; "From this it will be seen, that the ground assumed in the message has been fully maintained, at the same time that the stipulations of the Treaty of Ghent are to be carried out in good faith by the two countries, and that all pretence is removed for interference with our commerce for any purpose whatever by a foreign government." From this passage it has been inferred in England, that the President supposed the pretension to the right of search had been given up by the British government. We doubt if this be a fair inference. It does unquestionably imply a conviction, that the so called right *would not be exercised* on American commerce while the Treaty existed and its stipulations were fulfilled; and we presume this was the sense in which it was generally understood in this country. It would not be easy to assign any motives, on the part of the United States, for entering into such a treaty, if the special duties and service of the American squadron on the coast of Africa were to be interfered with by the British cruisers, any farther than such interference should be mutual, as authorized by the instructions of the two governments, according to the terms of the Treaty. Nothing is said about the abandonment of this darling right by the British government; and while it stands a barren tree, producing no fruit, with however much aversion it

may be regarded in America, it will hardly be looked upon with an eye of jealousy or apprehension. We cannot help thinking, therefore, that Sir Robert Peel's harangue in Parliament on this subject was gratuitous, and that the formal letter from Lord Aberdeen to Mr. Fox, read with so much apparent solemnity to the Secretary of State, was ill-suited to the occasion. They have naturally excited the suspicion, that the practice of searching American vessels is to continue as before. If such should be the result, we feel convinced it will breed troubles and mischief, and defeat the valuable ends which have been anticipated from this arrangement, founded, as believed in the United States, on the principles of a scrupulous reciprocity and the pledges of a mutual good faith. The plain construction of the Treaty is, that each nation, for the time stipulated, is to execute its own laws against the slave trade on the coast of Africa; that is, as provided in the eleventh article of the Treaty, for five years from the date of exchanging the ratifications, and afterwards, until one or the other of the parties shall signify a wish for the agreement to cease.

That this was the understanding of the American government, at the time of the negotiation, is declared by the President in his message to Congress communicating the correspondence concerning the Treaty. "I regarded the eighth article," he says, "as removing all possible pretext, on the ground of mere necessity, to visit and detain our ships on the African coast because of any alleged abuse of our flag by slave traders of other nations." And, again, "Denying, as we did, all color of right to exercise any such general police over the flag of independent nations, we did not demand of Great Britain any formal renunciation of her pretension; still less had we the idea of yielding any thing ourselves in that respect. We chose to make a practical settlement of the question." Such is the obvious purport of the Treaty itself, "a *practical* settlement of the question," while the Treaty continues at least, by a compact between the two nations to join with each other in executing the laws of each respectively for a common object. No pretension to a theoretical right, on either side, is meddled with; and, we repeat, it is unfortunate, that the British government should at the present time force in this pretension anew, and in a tone and manner by no means calculated to promote the spirit of con-

ciliation and the good feeling so essential to an effectual execution of the Treaty.

It can scarcely be doubted, however, that some arrangement between the two governments, by which the cruisers of each nation, under proper limitations and restrictions, should be authorized, while the two squadrons are acting together, to ascertain the genuineness of the flag of the other borne by a suspected vessel on the coast of Africa, would facilitate the means adopted for the suppression of the slave trade, which both countries have so much at heart. Any reasonable temporary sacrifice for so desirable an end, consistent with national honor, dignity, and independence, should not be refused. But the recent pretexts and practices of Great Britain, connected with historical incidents of the gravest character, must render any such arrangement extremely difficult, perhaps impracticable. It could only be accomplished by a compact, framed on the basis of entire reciprocity, for a limited and definite time, and with every possible guard against abuse. We say a limited time, for if it were to last "*for ever*," which Lord Aberdeen says is to be the duration of what he calls the "holy alliance" formed by the famous Quintuple Treaty, it may be safely affirmed, that neither the government nor a single individual of the United States would tolerate such an idea for a moment. We hope, indeed, that the slave trade is not to continue for ever.

If Great Britain finds the Americans indocile or intractable in this matter of maritime regulations, she must look for the cause to her past history and conduct. It is not alone the jealousy of the growing magnitude of her naval power, so often suggested by British writers, which has produced the sensitiveness that unquestionably exists in the breast of every citizen of the United States, in relation to this subject. Let her look back to her enormous encroachments upon our neutral commerce during her last European wars, her haughty bearing on the ocean, her blunted sense of justice, and her repeated violation of international laws, and she will see many sober realities, which have not been forgotten, and cannot be forgotten. If she was driven to these extremes in retaliation upon her foes, this may afford a feeble justification to herself, but it cannot obliterate the impressions that were deeply stamped by deliberate and aggravated injuries. To

treat friends as enemies is not the way to secure their confidence, or subdue their spirit. We have no desire to revive these recollections; we recur to them only as an index to the principal reasons for the cautious reserve of the government and people of the United States in lending an ear to any propositions touching the maritime power of Great Britain. To these causes add the preposterous claim to the allegiance of our adopted citizens, many of whom she has encouraged to leave their native land and seek a better heritage in a foreign country; add, again, the consequent practice of impressment, that barbarous relic of a barbarous age, scarcely less odious and detestable than the slave trade itself; and we shall have reasons enough, without travelling further, for the jealousy of the naval power of England on this side of the Atlantic.

Mr. Webster's able, searching, and eloquent argument against this practice, communicated to Lord Ashburton, embodies opinions universally entertained in America. For the peace and future good understanding between the two countries, these opinions ought not to be overlooked or slightly regarded by the British government and nation. Impressment of seamen, under the flag of the United States, has lighted the torch and kindled up the flames of one war; it will be the immediate cause of another, whenever it shall be repeated. A powder-magazine would not explode more instantaneously at the touch of a living coal, than would the whole people of the United States fly to arms to avenge such an aggression. We hazard nothing in affirming, that this sentiment is universal; it pervades every mind and every heart; and it is too deeply seated to be loosened by theories and precedents drawn from usages in the times of feudal vassalage and regal oppressions. It is a practical, enduring, and inflexible conviction, which time may strengthen, but never change. A writer of certain papers in the *London Morning Chronicle*, on what is there called the "Ashburton Capitulation," reputed to have been a high functionary in the late administration, informs his countrymen in one of those papers, that "The Americans, when it suits their purpose, can invent the strangest doctrines of international law." If the claim to protect their seamen under their country's flag be one of these strange doctrines, it does undoubtedly suit their purpose, and, without taking any merit to themselves for the

invention, it is the last they will ever cease to support and defend.

We forbear making any further remarks on these fruitful topics of the right of search and impressment, both because our space is limited, and because we propose to recur to them on some future occasion.

The tenth article of the Treaty provides for the delivering up of criminals who escape from justice, upon the requisition of the authorities of the country from which they have fled. The crimes enumerated are murder, assault with the intent to commit murder, piracy, arson, robbery, forgery, and the utterance of forged papers. An arrangement so favorable to the cause of justice cannot but be essentially beneficial to both countries. It does not include political offenders or fugitive slaves. An article in Jay's Treaty contained a similar provision in respect to two crimes only, those of murder and forgery, to continue in force for twelve years. The provision in the present Treaty is to cease whenever either of the parties shall signify a wish to that effect, and not before.

In reviewing the advantages of the Treaty of Washington, immediate and prospective, it is scarcely possible to estimate them too highly, or to bestow extravagant praise on the skill and good management of the negotiators, by whom so fortunate a result has been effected. It is, in fact, a treaty of peace, as well as of compromise. Larger interests have been at stake between nations, more extended objects have been compassed by negotiation, but rarely has a harder knot of difficulties been encountered, or points more perplexing been submitted for adjustment. Under a constitution like that of the American Union, by which each State claims the right of sovereignty over its own soil, no question can be more embarrassing than that involved in a dispute about the boundaries between the individual States and the territory of a foreign power. The disturbing forces of two or more parties are here to be brought to a central action, and into concert with the general government, before that government, the organ of the Union, and the only one recognized by foreign states, can be put in a condition to negotiate. In the present instance, not only Maine and Massachusetts, but New Hampshire, Vermont, and New York, had a negative voice, and each might have interposed,

if its claims had not been satisfied either by concession or an equivalent. The task of Mr. Webster, therefore, was vastly more formidable than that of his associate, and, view it as we may, it was not one of easy accomplishment under any circumstances. The questions at issue had been a prolific source of irritation for years; they had driven the two countries to the verge of a war; and the settlement of them, not for the present only, but on a basis which prevents their ever being renewed, must surely be regarded by all considerate men as a great and lasting benefit to the nation.

We have only to inquire, whether the gain is adequate to the loss. Has the national honor been preserved? Has any thing been extorted from us? Have improper sacrifices been made? As to the first, we think the most fastidious patriot can have no reason to complain; and, on a point like this, we would have every American fastidious. The advance was made by Great Britain, in the spirit of amity, not in a tone of demand; she complimented us by sending a special minister to negotiate in our own capital; and in the history of the negotiation we find nothing at variance with the spirit thus professed and shown. Our concessions were voluntary; yielded not because they were claimed, but because we believed our interests to be promoted by granting them. Our national honor, therefore, is safe. In regard to the equivalents, they who are the most deeply concerned may be presumed to be the best qualified to form a correct judgment. The Commissioners of Maine accepted the Treaty, and their constituents have acquiesced with great unanimity. The option was allowed them of taking the award of the King of the Netherlands, submitting to a new arbitration, or abiding by the Treaty. In their Report to the Legislature of Maine, they have given good reasons for preferring the last. The other States, whose border rights were blended in the controversy, are satisfied. What more can be asked or desired? Without satisfying all these States, a compromise was out of the question, and no one can imagine that they would assent to an arrangement, which would require or imply a sacrifice of their rights, or unreasonable concessions.

We think it due to Mr. Webster, that all, who would understand and properly estimate the difficulties of the

negotiation, should turn their attention particularly to the part of it, in which he succeeded in gaining the previous assent of Maine and Massachusetts. This was both a difficult and delicate point. The universal opinion in these States that their claim was just to its fullest extent, the deliberate and repeated acts of the legislatures, amounting almost to a declaration and pledge that this claim would be sustained at all hazards, and the popular feeling in accordance with these acts, presented obstacles not to be overcome without circumspection, address, and judgment. By the exercise of these qualities, with a prudent caution and penetrating foresight, the obstacles were removed, and the end was attained. It was an untried experiment, which would have failed in less skilful and less practised hands. A single false step, a single broken link in the chain of progress, a want of deference to the will or even the prejudices of a sovereign State, an ill-timed reserve, a tone of assurance, or an injudicious use of materials, might at any moment have broken off the negotiation and ruined the Treaty. The wisdom of Mr. Webster's course, throughout, has been proved by its success ; it has in the amplest manner fulfilled the high expectation, which his commanding talents, his character, and his long experience in public life, had taught the country to entertain.

The free navigation of the St. John is a new privilege, ceded in perpetuity to the United States. It operates for the immediate benefit of Maine ; but it has heretofore been deemed of so much importance to the commercial interests of the Union, that the grant of it has more than once been solicited from Great Britain. The lumber and agricultural products, bordering on all the waters of the St. John, are allowed to be transported down that river, without any other duties, or restrictions, than such as are laid on similar products, the growth of New Brunswick. Lord Ashburton says, in one of his notes to Mr. Webster, that these products, when "once at the mouth of the St. John, will have the privilege of reaching the British as well as other markets" ; and the same declaration has since been repeated in Parliament by Lord Stanley, the Minister for the Colonies. It is favorable to this arrangement, that it is by no means adverse to the interests of New Brunswick, and will tend to cement and strengthen, rather than to weaken, the harmony between the people of that Province and of Maine.

From the constant presence of an American squadron on the coast of Africa, many advantages may be expected, in addition to that of its immediate and highest service for the suppression of the slave trade. According to a recent Report of the Secretary of the Navy, "the lawful commerce of our citizens with all parts of the coast is rapidly increasing, and already employs a very large capital." We regret to learn from the same authority, that, during the past year, no squadron has been on the coast, and that, chiefly in consequence of this want of protection, "several of our vessels have been captured by the natives, and their crews barbarously murdered." This consideration alone is enough to sanction all the provisions of the eighth article of the Treaty, besides the duty, which the nation owes to itself, of redeeming the solemn pledges it has made to the world, by the execution of its laws against a most infamous traffic, which has for centuries afflicted, degraded, and disgraced humanity. To Great Britain, for her noble and unwearied efforts in this sacred cause, and for her generous sacrifices in its behalf, every philanthropist will cheerfully render the homage of unqualified praise. She is suspected of having ulterior aims; of being influenced as much, at least, by motives of aggrandizement, as by a love for an oppressed and benighted race of human beings. Herein we shall not assume the office of judge, content to weigh the motives by the deeds. Let her have credit for the good she has done, and is doing. If time removes a mask, and reveals the deformities of a deceptive and selfish design, of a grasping ambition and aggressive power, let judgment and retribution follow. The aid and countenance which our squadron may incidentally afford to the colonies of American emigrants on the coast of Africa, by protecting and encouraging their trade, are not among the least benefits which may be anticipated from its service. These colonies present one of the most interesting features in the history of the passing age. Established on the broadest principles of humanity and benevolence, and intended to ascertain by a fair experiment the capacity of the colored race for civilization, enlightened government, and self-culture, they have hitherto more than answered the sanguine hopes of their founders and benefactors. An experiment so well begun, and for so high an object, and opening so bright a promise, deserves not only good wishes, but a steady and active support.

If any other evidence of the value of the Treaty, than that to which we have called the attention of our readers, were needed, it would be found in the triumph it has gained over public opinion. Rarely has a treaty in any country, involving such grave and complicated matters of dispute, been approved by so unanimous a voice. Look back to Jay's Treaty, which turned out to be highly advantageous to the nation, and call to mind the bitter hostility with which it was everywhere assailed, the ferment, the public meetings composed of all political parties, the denunciations and remonstrances, which almost shook the firmness of Washington himself; and then compare these events with the tranquillity, and even the rejoicings, of the whole land, when the results of the late negotiation were sent abroad. This impulse of approbation has been confirmed by eight months of deliberate inquiry and calm thought. That there should be opposition in some quarters is not strange; antagonist principles, and antagonist parties, exist in all free countries; and a public measure of this magnitude will never fail to call them into action. But, after all, the effective opposition, as manifested in the national legislature, was inconsiderable. In the vote upon the bill making appropriations for the execution of the Treaty, there were only four negative voices in the Senate, and about forty in the other House; a unanimity almost without a parallel in any vote upon a measure of great national interest.

The Senators who spoke against the Treaty, and whose speeches have been printed, seem to have taken the ground, that the United States were wholly right, and Great Britain wholly wrong, and that Mr. Webster had nothing to do but to insist peremptorily upon every demand he chose to make. An argument built upon this assumption would be equally strong against any treaty that could possibly have been effected. They moreover complain, that all the differences between the two countries were not reconciled and settled. What grain of sound policy, wisdom, or practical sense, can be detected in this objection? Shall we never begin a good work, because we cannot complete it, at once, to our entire satisfaction? Is it not a great and substantial gain to remove some of the bars to peace, harmony, and reciprocal intercourse, although others may remain, and await the issue of more favorable circumstances? Shall we do nothing, be-

cause we cannot do every thing, and do all in our own way? In some of these arguments, also, the spirit of party is seen to be working so rifely at bottom, as to take away much of the force they might otherwise possess, and to show that honest convictions, when derived through this medium, may receive their shape and hue from prejudice and preconceived opinions. This is to be regretted, since, to whatever extent the ebullitions of party spirit may be endured in our domestic affairs, it should never be suffered to raise its hydra head in our relations with foreign countries. Wherever these relations are concerned, there should be but one party, and that party the whole nation, animated and moved by one heart and one soul. The Treaty has sustained itself against all these assaults. By the discussions to which they have given life, its real merits have been more conspicuously brought to light, and more deeply impressed on the public mind; and experience will every day prove, that what is now regarded as an honorable and fortunate achievement, will have a permanent and salutary influence on the prosperity of the country.

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